PUBLIC PROSECUTOR v. HOO CHANG CHWEN

[A. Cr. J. (Rose C.J.) June 13, 1962]

[Singapore — Magistrate's Appeal No. 65 of 1962]

Criminal Law and Procedure — Procedural ruling by Magistrate — Whether appealable at middle of trial — Criminal Procedure Code (Cap. 132), ss.284 and 290.

In a case where there is a contest as to a certain procedural ruling made by the Magistrate the Prosecutor or the defence cannot appeal in the middle of the trial against that procedural ruling because such a ruling is not an appealable order within the provisions of the Criminal Procedure Code.

CRIMINAL APPEAL.

Sachi Saurajen (Deputy Public Prosecutor) for the appellant.

T. T. Rajah for the respondent.

Cur. Adv. Vult.

Rose C.J.: The complainants in the present matter alleged that while on their way to work they met with interference at the hands of the respondent and others on the 7th of February, 1962. Written complaints were lodged at the Ministry of Labour on the following day and copies of these complaints were forwarded to the Police and received by them on the afternoon of the 9th.

On the 10th the Deputy Superintendent of Police communicated with the manager of Roneo, in which firm the complainants were employed, and arranged for them to attend for interview on the 12th.

On that day the complainants duly attended and made statements. It is about these statements that the present matter revolves.

At the trial before the learned Magistrate the prosecution did not propose to adduce these statements in evidence on the ground that they were statements made in the course of a Police investigation and were therefore inadmissible under section 121 of the Criminal Procedure Code.

Learned counsel for the defence took up the position that these statements constituted first informations within the meaning of section 114 of the Criminal Procedure Code and were therefore admissible in evidence. He requested that copies should be made available to the defence.

There was a contest on this issue and in the result the learned Magistrate ruled that copies of the statements made to the Deputy Superintendent of Police should be supplied to the defence.

The case did not proceed beyond that point and the Crown now appeals against this ruling of the learned Magistrate, which it contends is an appealable order within the meaning of sections 284 and 290 of the Criminal Procedure Code.

As Mr. Saurajen, for the Crown, submits, whether or not any particular statement is a first information or one taken in the course of a Police investigation is eminently a question of fact depending upon the circumstances of each case. In the present case it may well be that the learned Magistrate has come to a wrong conclusion on the matter; but that is not the point at issue as far as this Court is concerned.

Assuming that the defence had wished these statements to be in and the Magistrate had found the other way and excluded the statements on the ground that they were inadmissible, it would surely seem to be beyond argument that the defence could not have appealed in the middle of the trial against a procedural ruling, which is eminently within the discretion of the trial court. Why, therefore, should the Crown be in a better position than the defence?

Mr. Saurajen suggests that the distinction is that in the one case the learned Magistrate has made an order for the statements to be produced and made available to the defence, whereas in the other he would merely have made a ruling that the documents in question were inadmissible.

While I appreciate the point, it seems to me, with all respect to learned Crown counsel, that it is really, for the purposes of the present matter, a distinction without a difference.

What in effect the learned Magistrate would have to decide in either example is whether the statements in question are admissible in evidence. If he decides that they are not, he rules accordingly; if he decides that they are, he also rules accordingly. And this is, in effect, what he has done in the present matter.

Such a ruling is, in my opinion, not an appealable order. The fact that the Magistrate has gone on to say that copies should be supplied to the defence counsel does not seem to me to affect the position, as in any event, quite apart from any such order from the learned Magistrate, once the statements were produced in evidence in pursuance of a direction under section 116(2) of the Criminal Procedure Code, they would of course become known and available to the defence.

I would add that to arrive at any other conclusion would seem to me to open the door to a number of appeals in the course of criminal trials on points which are in their essence procedural. The proper time, of course, to take such points would be upon appeal, after determination of the principal matter in the trial court.

For these reasons the appeal is dismissed. The case should now proceed from the point at which it had arrived when the present matter arose for consideration.

Appeal dismissed.